

(2012) 09 P&amp;H CK 0281

**High Court Of Punjab And Haryana At Chandigarh****Case No:** Criminal Miscellaneous M No. 30501 of 2009

Jasbir Kaur and Another

APPELLANT

Vs

State of Haryana and Another

RESPONDENT

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**Date of Decision:** Sept. 17, 2012**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 482
- Penal Code, 1860 (IPC) - Section 148, 149, 323, 427, 452

**Hon'ble Judges:** Sabina, J**Bench:** Single Bench**Advocate:** A.S. Sullar, for the Appellant; Amandeep Singh Rai, D.A.G., Punjab, Mr. Chander Shekhar, Advocate for Mr. Ravi Kumar, Advocate, for the Respondent**Final Decision:** Dismissed

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**Judgement**

Sabina, J.

Petitioners have filed this petition u/s 482 of the Code of Criminal Procedure, 1973 seeking quashing of impugned order dated 19.8.2009 passed by the Judicial Magistrate First Class (Annexure P1) whereby, the petitioners were summoned and complaint No. 45/2.8.2009 dated 22.6.2007 (Annexure P2) along with all consequential proceedings arising thereto. Learned counsel for the petitioners has submitted that no allegations were levelled against the petitioners when the statements of the injured- Kanta Rani and Pardeep Kumar were recorded by the Police. Even in the complaint, no allegation was levelled that the police had not correctly recorded their statements. Petitioners had been falsely involved in this case.

2. Learned counsel for respondent No. 2, on the other hand, has submitted that the petitioners had also duly participated in the occurrence. Complainant had led her evidence in support of her complaint. The petitioners had been rightly summoned by the trial Court to face the trial along with their co-accused. Revision petition filed

by the co-accused of the petitioners had been dismissed by the Sessions Court.

3. After hearing the learned counsel for the parties, I am of the opinion that instant petition deserves to be allowed.

4. The occurrence in the present case had taken place on 20.5.2007. Jasvinder Singh @ Jassi had lodged the FIR No. 123 dated 22.5.2007 under Sections 148, 149, 323, 427, 452, 506 of the Indian Penal Code at Police Station Parav, Ambala (Annexure P3) against Ramesh and his sons- Golu, Pardeep and Ripy and his wife-Kanta and Bobby and Mohinder Singh, Surinder Fauji and Vishal @ Tota. Kanta and Pardeep Kumar were also admitted in the hospital. On 22.5.2007, the Assistant Sub Inspector sought opinion from the Doctor qua the fitness of Kanta and Pardeep Kumar. A perusal of Annexure P7 reveals that both the said patients were declared medically fit for making their statements but had refused to give their statements. The statements of Kanta Rani and Pardeep Kumar were recorded by the Police on 23.5.2007. Statement of Pardeep Kumar is Annexure P4, whereas, the statement of Kanta Rani is Annexure P5. Thus, Pardeep Kumar and Kanta Rani had put up their cross-version by getting their statements recorded before the Police. The said cross-version was not found to be correct by the Police and, thereafter, Kanta Rani, respondent No. 2 filed a complaint in question (Annexure P2) on 22.6.2007.

5. A perusal of the statement of Pardeep Kumar and Kanta Rani, Annexure P4 and P5, reveals that they had not levelled any allegations against the petitioners. It had been stated by Pardeep Kumar and Kanta Rani in their statements before the charge recorded on 23.5.2007 that Randeep Singh, Nirmal Singh, Jaswinder and Dalel Singh armed with Dandas had attacked Pardeep Kumar on 22.5.1007 at about 9.00 a.m. In the meantime, Kanta Rani reached the spot and fell on her son Pardeep Kumar with a view to protect him. Paramjit Kaur wife of Jaswinder Singh also reached at the spot and caught hold of Kanta Rani from her hair and gave her slaps. When Pardeep Kumar and Kanta Rani raised alarm., Ram Lal and Jagdish Chand reached the spot and rescued them from the assailants. Thus, in the said statements, names of petitioners -Jasbir Kaur and Harjinder Kaur were not mentioned nor any role was attributed to them. Jasbir Kaur and Harjinder Kaur are the daughters-in-law of Jasvinder Singh. The complainant party is facing the trial in the FIR registered against them by Jasvinder Singh qua the occurrence which had taken place on 22.5.2007 at about 7.30 a.m. A perusal of the complaint (Annexure P2) reveals that it has been stated in para 4 of the complaint that the petitioners had caught the complainant from her hair along with Paramjit Kaur and had given slaps and kick blows to the complainant. However, the complainant has not referred to this aspect when her statement was recorded by the police. It is also not mentioned in the complaint that the police had incorrectly recorded the statement of the complainant and Pardeep Kumar. In these circumstances, since in the initial version given by the complainant and the injured- Pardeep Kumar, the names of the petitioners were not mentioned nor any participation was attributed to them, it

appears that the petitioners were named in the complaint at a later stage as they are daughters-in-law of Jasvinder Singh. Jasvinder Singh, his wife and son are already facing the trial in the complaint in question. Complainant party is facing the trial in the FIR registered against them on the basis of the statement of Jasvinder Singh., In the facts and circumstances of the present case, continuation of criminal proceedings against the petitioners would be nothing but an abuse of process of law. Accordingly, this petition is allowed. Impugned summoning order dated 19.8.2009 (Annexure P1) qua the petitioners is set aside. Consequently, the complaint qua the petitioners is dismissed.